

Exemptions and Abatements

5.1 Introduction

Under the negative list approach of taxation of services, in order to ascertain the taxability of an activity, one needs to consider the following questions:-

- (i) Whether the service has been provided in the taxable territory by one person to another?
- (ii) Is the service not mentioned in the negative list of services under section 66D?
- (ii) Is it not a declared service as per section 66E?

If the answers to the aforesaid questions are in affirmative, then the last aspect which needs to be examined is whether the service is exempted by CBEC.

In case exemption has been granted to a service from whole of the service tax, it will also include exemption to education cess and secondary and higher education cess [Circular No. 134/3/2011-ST dated 08.4.2011].

Exempted services vs. Services included in the negative list

An exempted service is a **taxable service** which has been exempted by the Central Government by issuing a notification under section 93(1) of the Finance Act, 1994 whereas a negative list service is **not taxable** at all as it is outside the scope of the charging section-section 66B of the Finance Act, 1994.

Further, any change in the existing exemptions or any new exemption can be granted by the Central Government by issuing a notification in the Official Gazette whereas for amending the negative list of services under section 66D, Finance Act, 1994 has to be amended seeking approval from both houses of the Parliament.

This chapter discusses in detail the exemptions and abatements available in respect of various services under the negative list regime.

EXEMPTIONS

5.2 Mega exemption notification

Notification No. 25/2012-ST dated 20.06.2012 is the mega exemption notification wherein most of the exemptions have been consolidated at one place for ease of reference. The various exemptions provided by the notification are discussed hereunder:

1. **Services to United Nations/specified international organization:** Services provided TO the United Nations and specified international organisations are exempt. However, it is important to note that services provided BY these organizations are chargeable to service tax.

5.2 Indirect Taxes

Specified International Organization means an international organization declared by the Central Government in pursuance of section 3 of the United Nations (Privileges and Immunities) Act, 1947, to which the provisions of the Schedule to the said Act apply.

Illustrative list of specified international organisations is as follows:

- (a) International Civil Aviation Organisation
- (b) World Health Organisation
- (c) International Labor Organisation
- (d) Food and Agriculture Organisation of the United Nations
- (e) UN Educational, Scientific and Cultural Organisation (UNESCO)
- (f) International Monetary Fund (IMF)

2. Health care services

- (a) Health care services provided **BY** a clinical establishment, an authorized medical practitioner or para-medics, and
- (b) Services provided **BY** a veterinary clinic in relation to health care of animals or birds are exempt from service tax.

ANALYSIS

(i) Meaning of health care services

Health care services

- (a) **means** any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any **recognised system of medicines** in India and
- (b) **includes** services by way of transportation of the patient to and from a clinical establishment, but
- (c) **does not include** hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Hence, the definition of health care services is both an inclusive and exhaustive.

- (ii) **Only recognized systems of medicines exempt:** Only services in recognized systems of medicines in India provided by the persons specified under this head are exempt. In terms of the clause (h) of section 2 of the Clinical Establishments Act, 2010, the following systems of medicines are recognized systems of medicines:-

- Allopathy
- Yoga
- Naturopathy

- Ayurveda
- Homeopathy
- Siddha
- Unani
- Any other system of medicine that may be recognized by Central Government.

1. **Authorised medical practitioner** means a medical practitioner registered with any of the councils of the recognized system of medicines established or recognized by law in India and includes a medical professional having the requisite qualification to practice in any recognized system of medicines in India as per any law for the time being in force.
2. **Clinical establishment** means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases.
3. **Para-medics** are trained health care professionals, for example nursing staff, physiotherapists, technicians, lab assistants etc. Services by them in a clinical establishment would be in the capacity of employee and not provided in independent capacity and will thus be considered as services by such clinical establishment. Similar services in independent capacity are also exempted. Thus, paramedics need not be medical professionals possessing professional qualifications.

3. **Stem cell banking services:** *Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are exempt from service tax.*

4. **Common bio-medical waste treatment:** *Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto are exempt from service tax.*

5. **Services provided by an entity registered under section 12AA of the Income tax Act, 1961 by way of charitable activities:** In order to claim exemption under this head, following two conditions must be satisfied:-

- (i) The entity is registered with income tax authorities under section 12AA of the Income tax Act, 1961, and
- (ii) The entity carries out one or more of the **specified charitable activities**.

5.4 Indirect Taxes

It implies that any service other than by way of charitable activities to any other person for consideration (not covered in negative list) provided by an entity registered under section 12AA of the Income tax Act, 1961 is chargeable to service tax.

Charitable activities means activities relating to -

- (i) public health by way of -
 - (a) care or counseling of
 - (i) terminally ill persons or persons with severe physical or mental disability,
 - (ii) persons afflicted with HIV or AIDS, or
 - (iii) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
 - (b) public awareness of preventive health, family planning or prevention of HIV infection;
- (ii) advancement of religion or spirituality;
- (iii) advancement of educational programmes or skill development relating to,-
 - (a) abandoned, orphaned or homeless children;
 - (b) physically or mentally abused and traumatized persons;
 - (c) prisoners; or
 - (d) persons over the age of 65 years residing in a rural area;
- (iv) preservation of environment including watershed, forests and wildlife; or

6. Religious ceremonies: Services provided **BY** a person by way of conduct of any religious ceremony are exempt from service tax.

Religious ceremonies are life-cycle rituals including special religious poojas conducted in terms of religious texts by a person so authorized by such religious texts. Occasions like birth, marriage, and death involve elaborate religious ceremonies.

7. Legal services: Services provided **BY** -

- (a) an arbitral tribunal to -
 - (i) any person other than a business entity; or
 - (ii) a business entity with a turnover up to ₹ 10 lakh in the preceding financial year.
- (b) an individual as an advocate or a partnership firm of advocates by way of legal services to-
 - (i) an advocate or partnership firm of advocates providing legal services ;
 - (ii) any person other than a business entity; or

- (iii) a business entity with a turnover up to ₹ 10 lakh in the preceding financial year.
 - (c) a person represented on an arbitral tribunal to an arbitral tribunal
- are exempt from service tax.

ANALYSIS

Legal service means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.

Advocates can provide services either as individuals or as firms. Under this head, legal services provided by advocates or partnership firms of advocates are exempt from service tax when provided to the following:-

- an advocate or partnership firm of advocates providing legal services (Here the services are being provided to the same class of persons)
- any person other than a business entity
- a business entity with a turnover up to rupees ten lakh in the preceding financial year

However, in respect of services provided to business entities, with a turnover exceeding ₹ 10 lakh in the preceding financial year, tax is required to be paid on reverse charge by the business entities. Business entity is defined in section 65B of the Finance Act, 1994 as 'any person ordinarily carrying out any activity relating to industry, commerce or any other business or profession'. Thus, it includes sole proprietors as well. The business entity can, however, take input tax credit of such tax paid in terms of the CENVAT Credit Rules, 2004, if otherwise eligible. The provisions relating to arbitral tribunal are also on similar lines.

1. **Arbitral tribunal** means a sole arbitrator or a panel of arbitrators.
2. **Advocate** means an advocate entered in any roll under the provisions of the Advocates Act, 1961.

8. Recreational coaching or training: Services provided by way of training or coaching in recreational activities relating to arts, culture or sports are exempt from service tax.

The term 'recreational activities' is very wide. However, under this head, the scope of training or coaching in recreational activities is restricted to the area of:-

- (i) Arts
- (ii) Culture
- (iii) Sports

Hence, the training or coaching in recreational activities in the areas other than arts, culture or sports shall be chargeable to service tax.

5.6 Indirect Taxes

Further, training or coaching relating to all forms of arts, culture or sports is covered under this head. In other words, the said exemption is available to coaching or training relating to all forms of dance, music, painting, sculpture making, theatre, sports etc.

9. Educational services: *Services provided-*

- (a) *BY an educational institution to its students, faculty and staff;*
- (b) *TO an educational institution, by way of,-*
 - (i) *transportation of students, faculty and staff;*
 - (ii) *catering, including any mid-day meals scheme sponsored by the Government;*
 - (iii) *security or cleaning or house-keeping services performed in such educational institution;*
 - (iv) *services relating to admission to, or conduct of examination by, such institution.*

are exempt from service tax.

Educational institution means an institution providing services specified in clause (I) of section 66D of the Finance Act, 1994.

10. Skill development services: *Services provided by:-*

- (i) *the National Skill Development Corporation (NSDC) set up by the Government of India;*
- (ii) *a Sector Skill Council (SSC) approved by the NSDC;*
- (iii) *an assessment agency approved by the SSC or the NSDC;*
- (iv) *a training partner approved by the NSDC or the SSC*

in relation to:-

- (a) *the National Skill Development Programme implemented by the NSDC; or*
- (b) *a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or*
- (c) *any other Scheme implemented by the NSDC*

are exempt from service tax.

11. Sports services: *Services provided TO a recognized sports body BY-*

- (a) *an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body;*
- (b) *another recognized sports body*

are exempt from service tax.

Whether the following services are exempt under this head or taxable?

S. No.	Service provided	Whether exempt under this head or otherwise taxable?
1.	Services provided to a recognized sports body by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body	Exempt under this head
2.	Service of a player provided to a franchisee which is not a recognized sports body	Taxable
3.	Services provided by a recognized sports body to another recognized sports body	Exempt under this head
4.	Services provided by individuals such as selectors, commentators, curators, technical experts	Taxable
5.	Services of an individual as umpire, referee when provided directly to a recognized sports body	Exempt under this head

Recognized sports body means –

- (i) Indian Olympic Association
- (ii) Sports Authority of India
- (iii) A national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliate federations
- (iv) National sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government
- (v) International Olympic Association or a federation recognised by the International Olympic Association, or
- (vi) A federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India.

12. Sponsorship of sports events: Services provided by way of sponsorship of sporting events organised,-

- (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone *or country*;
- (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
- (c) by Central Civil Services Cultural and Sports Board;

5.8 Indirect Taxes

- (d) as part of national games, by Indian Olympic Association; or
 - (e) under Panchayat Yuva Kreedha Aur Khel Abhiyaan (PYKKA) Scheme
- are exempt from service tax.

13. Artist performance: Services provided **BY** a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, excluding services provided by such artist as a brand ambassador are exempt from service tax.

Whether the following activities are exempt under this head or taxable?

S.No.	Activities	Taxable or exempt
1.	Activities by a performing artist in folk or classical art forms of music, dance, or theatre	Exempt
2.	All other activities by an artist in other art forms e.g. western music or dance, modern theatres, performance of actors in films or television serials	Taxable
3.	Activities of artists in still art forms e.g. painting, sculpture making etc.	Taxable
4.	Services provided by an artist as brand ambassador	Taxable

Brand ambassador means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person.

14. Services by way of collecting or providing news: Services provided by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India are exempt from service tax.

15. Transportation of specified goods, by road/rail/vessel: Exemptions granted to transport of goods through rail or a vessel or a goods carriage are presented in the following table: -

Transportation of the following goods by rail / vessel is exempt from service tax	Transportation of the following goods in a goods carriage by a goods transport agency is exempt from service tax
Railway equipments or materials	(i) goods where gross amount charged for the transportation of goods on a consignment transported in a single goods carriage does not exceed ₹ 1500; or

	(ii) goods, where gross amount charged for transportation of all such goods for a single consignee does not exceed ₹ 750.
Transportation of the following goods by rail / vessel / goods carriage is exempt from service tax	
(a) agricultural produce (b) foodstuff** including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages (c) chemical fertilizer, oilcakes and <i>organic manure</i> (d) newspaper or magazines registered with the Registrar of Newspapers (e) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap (f) defence or military equipments (g) <i>cotton, ginned or baled</i>	

**Note: The expression foodstuff here includes milk also.

Goods carriage means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods.

16. Passenger transportation services: Transport of passengers, with or without accompanied belongings, by -

- (a) air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;
- (b) *non air-conditioned contract carriage other than radio taxi, for the transportation of passengers, excluding tourism, conducted tour, charter or hire; or*
- (c) ropeway, cable car or aerial tramway

is exempt from service tax.

Contract carriage means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum-

- (a) on a time basis, whether or not with reference to any route or distance; or
- (b) from one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey,

5.10 Indirect Taxes

and includes-

- (i) a maxicab; and
- (ii) a motorcar notwithstanding the separate fares are charged for its passengers.

Radio taxi means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS).

17. Services provided to Government, a local authority or a Governmental authority by way of -

(a) *water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation; or*

(b) repair or maintenance of a vessel

are exempt from service tax.

18. Insurance business services

A. **General Insurance:** Services of general insurance business provided under following schemes are exempt from service tax:

- (a) Hut Insurance Scheme;
- (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme);
- (c) Scheme for Insurance of Tribals;
- (d) Janata Personal Accident Policy and Gramin Accident Policy;
- (e) Group Personal Accident Policy for Self-Employed Women;
- (f) Agricultural Pumpset and Failed Well Insurance;
- (g) Premia collected on export credit insurance;
- (h) Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture;
- (i) Jan Arogya Bima Policy;
- (j) National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana);
- (k) Pilot Scheme on Seed Crop Insurance;
- (l) Central Sector Scheme on Cattle Insurance;
- (m) Universal Health Insurance Scheme;
- (n) Rashtriya Swasthya Bima Yojana; or
- (o) Coconut Palm Insurance Scheme;

General insurance business means fire marine or miscellaneous insurance business, whether carried on singly or in combination with one or more of them, but does not include capital redemption business and annuity certain business.

B. Life Insurance: Services of life insurance business provided under following schemes are exempt from service tax-

- (a) Janashree Bima Yojana (JBY); or
- (b) Aam Aadmi Bima Yojana (AABY)
- (c) *life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of ₹ 50,000*

1. Life insurance business: As per section 2(11) of Life Insurance Act, 1938, life insurance business means the business of effecting contracts of insurance upon human life, including any contract whereby the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, and any contract which is subject to payment of premiums for a term dependent on human life and shall be deemed to include—

- (a) the granting of disability and double or triple indemnity accident benefits, if so provided in the contract of insurance;
- (b) the granting of annuities upon human life; and
- (c) the granting of superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment or of the dependents of such persons.

Further, life insurance business shall include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment and a component of insurance issued by an insurer referred to in clause (9) of this section.

2. Life micro-insurance product: *As per clause (e) of regulation 2 of the Insurance Regulatory and Development Authority (Micro-insurance) Regulations, 2005, life micro insurance product means any term insurance contract with or without return of premium, any endowment insurance contract or health insurance contract, with or without an accident benefit rider, either on individual or group basis, as per terms stated in Schedule-II appended to these regulations.*

19. Services provided by an incubatee up to a total turnover of ₹ 50 lakh in a financial year subject to the following conditions, namely:-

- (a) the total turnover had not exceeded ₹ 50 lakh during the preceding financial year; and

5.12 Indirect Taxes

- (b) a period of three years has not elapsed from the date of entering into an agreement as an incubatee

are exempt from service tax.

Incubatee means an entrepreneur located within the premises of a Technology Business Incubator (TBI) or Science and Technology Entrepreneurship Park (STEP) recognized by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the TBI or the STEP to enable himself to develop and produce hi-tech and innovative products.

20. Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution -

- (a) as a trade union;
- (b) for the provision of carrying out any activity which is exempt from the levy of service tax; or
- (c) up to an amount of ₹ 5,000 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex

is exempt from service tax.

1. **Trade union** means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions.
2. **Residential complex** means any complex comprising of a building or buildings, having more than one single residential unit.

Points to note: Circular No.175/01/2014 ST dated 10.01.2014 has clarified the following in relation to exemption available to services provided by a Resident Welfare Association (RWA) to its own members:

(i) If per month per member contribution of any or some members of a RWA exceeds ₹ 5,000, entire contribution of such members whose per month contribution exceeds ₹ 5,000 would be ineligible for the exemption under the said notification. Service tax would then be leviable on the aggregate amount of monthly contribution of such members.

(ii) Services provided by a RWA in the name of its members, acting as a 'pure agent' of its members, are excluded from value of taxable service available for the purposes of

SSP exemption or exemption provided under mega exemption notification. For example, where the payment for an electricity bill raised by an electricity transmission or distribution utility in the name of the owner of an apartment in respect of electricity consumed thereon, is collected and paid by the RWA to the utility, without charging any commission or a consideration by any other name, the RWA is acting as a pure agent and hence exclusion from the value of taxable service would be available. However, in the case of electricity bills issued in the name of RWA, in respect of electricity consumed for common use of lifts, motor pumps for water supply, lights in common area, etc., since there is no agent involved in these transactions, the exclusion from the value of taxable service would not be available.

(iii) RWA may avail CENVAT credit and use the same for payment of service tax, in accordance with the CENVAT Credit Rules, 2004.¹

21. Services provided by the following persons in respective capacities are exempt from service tax -

- (a) sub-broker or an authorized person to a stock broker;
- (b) authorized person to a member of a commodity exchange;
- (c) mutual fund agent to a mutual fund or asset management company;
- (d) distributor to a mutual fund or asset management company;
- (e) selling or marketing agent of lottery tickets to a distributor or a selling agent;
- (f) selling agent or a distributor of SIM cards or recharge coupon vouchers;
- (g) business facilitator or a business correspondent to a banking company or an insurance company, in a rural area.

1. Banking company means a banking company as defined in section 5 of the Banking Regulation Act, 1949, and **includes** the State Bank of India any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, any corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, and any other financial institution notified by the Central Government in this behalf.

As per section 5 of the Banking Regulation Act, 1949, "banking company" means any company which transacts the business of banking in India;

Explanation. — Any company which is engaged in the manufacture of goods or carries on any trade and which accepts deposits of money from the public merely for the purpose of financing its business as such manufacturer or trader shall not be deemed to transact the business of banking within the meaning of this clause.

¹ Concepts of CENVAT credit have been discussed in Chapter - 7: CENVAT Credit

5.14 Indirect Taxes

2. **Business facilitator or business correspondent** means an intermediary appointed under the business facilitator model or the business correspondent model by a banking company or an insurance company under the guidelines issued by Reserve Bank of India.
3. **Commodity exchange** means an association an association to which recognition for the time being has been granted by the Central Government under section 6 of the Forward Contracts (Regulation) Act, 1952 in respect of goods or classes of goods specified in such recognition.
4. **Distributor or selling agent** means an individual or a firm or a body corporate or other legal entity under law so appointed by the Organising State through an agreement to market and sell lotteries on behalf of the Organising State and **shall include** distributor or selling agent authorized by the lottery-organising State.
5. **Insurance company** means a company carrying on life insurance business or general insurance business.
6. **Rural area** means the area comprised in a village as defined in land revenue records, excluding-
 - (a) the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or
 - (b) any area that may be notified as an urban area by the Central Government or a State Government.
7. **Sub-broker** means any person not being a member of stock exchange who acts on behalf of a stock broker as an agent or otherwise for assisting the investors in buying, selling or dealing in securities through such stock brokers.
8. **Authorised person** means any person who is appointed as such either by a stock broker (including trading member) or by a member of a commodity exchange and who provides access to trading platform of a stock exchange or a commodity exchange as an agent of such stock broker or member of a commodity exchange.

22. Carrying out an intermediate production process as job work in relation to -
 - (a) agriculture, printing or textile processing;
 - (b) cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 of the Central Excise Tariff Act, 1985;
 - (c) any goods on which appropriate duty is payable by the principal manufacturer; or
 - (d) processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of ₹ 150 lakh in a financial year subject to the condition that such aggregate value had not exceeded ₹ 150 lakh rupees during the preceding financial year

is exempt from service tax.

1. **Appropriate duty** means duty payable on manufacture or production under a Central Act or a State Act, but shall not include 'Nil' rate of duty or duty wholly exempt.
2. **Principal manufacturer** means any person who gets goods manufactured or processed on his account from another person.

Paddy milled into rice, on job work basis is exempt from service tax since such milling of paddy is an intermediate production process in relation to agriculture [Circular No.177/03/2014 ST dated 17.02.2014].

23. Services provided by an organizer to any person in respect of a business exhibition held outside India are exempt from service tax.
24. Services provided by way of making telephone calls from -
 - (a) departmentally run public telephone;
 - (b) guaranteed public telephone operating only for local calls; or
 - (c) free telephone at airport and hospital where no bills are being issued
 are exempt from service tax.
25. Services provided by way of slaughtering of animals are exempt from service tax.
26. Services received from a provider of service located in a non- taxable territory by -
 - (a) Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession;
 - (b) an entity registered under section 12AA of the Income tax Act, 1961 for the purposes of providing charitable activities; or
 - (c) a person located in a non-taxable territory
 are exempt from service tax.
27. Services of public libraries by way of lending of books, publications or any other knowledge- enhancing content or material are exempt from service tax.
28. Services provided by Employees' State Insurance Corporation to persons governed under the Employees' Insurance Act, 1948 are exempt from service tax.
29. Services provided by way of transfer of a going concern, as a whole or an independent part thereof are exempt from service tax.
30. Services provided by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets are exempt from service tax.
31. Services provided by a Governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243W of the Constitution are exempt from service tax.

32. *Services by way of loading, unloading, packing, storage or warehousing of rice, cotton ginned or baled are exempt from service tax.*

33. *Services received by RBI, from outside India in relation to management of foreign exchange reserves are exempt from service tax. Therefore, specialized financial services received by Reserve Bank of India from global financial institutions in the course of management of foreign exchange reserves, e.g., external asset management, custodial services, securities lending services, etc. will be exempt from service tax.*

34. *Services provided by a tour operator to a foreign tourist in relation to a tour wholly conducted outside India are exempt from service tax. For example, service provided by an Indian tour operator to a Chinese National for a tour conducted in Sri Lanka will be exempt from service tax under this entry.*

For the purpose of this notification, governmental authority means an authority or a board or any other body;

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by Government,

with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution.

5.3 Small service provider's (SSP) exemption

Central Government has exempted the taxable services of aggregate value not exceeding ₹10 lakh in any financial year from the whole of the service tax leviable thereon under section 66B of the Finance Act, 1994 in case the aggregate value of taxable services rendered by the service provider from one or more premises, does not exceed ₹ 10 lakh in the preceding financial year.

A. Services in respect of which SSP exemption is not available

(i) **Taxable services provided under brand name:** SSP exemption is not available to the taxable services provided by a person under a brand name or trade name, whether registered or not, of another person.

(ii) **Services taxed under reverse charge mechanism:** SSP exemption is not available to such value of taxable services in respect of which service tax is payable on reverse charge mechanism by a person.

B. Availability of the CENVAT credit on inputs, input services and capital goods

(i) CENVAT credit on input services

(a) The provider of taxable service shall not avail the CENVAT credit² of service tax paid on any input services used for providing the said taxable service, for which SSP exemption is availed of.

² The provisions relating to CENVAT credit have been discussed in Chapter-7: CENVAT credit.

- (b) The provider of taxable service shall avail the CENVAT credit only on such input services received, on or after the date on which the service provider starts paying service tax, and used for the provision of taxable services for which service tax is payable.

(ii) CENVAT credit on inputs

- (a) Service provider shall avail the CENVAT credit only on such inputs received, on or after the date on which the service provider starts paying service tax, and used for the provision of taxable services for which service tax is payable.
- (b) A service provider who starts availing SSP exemption shall be required to pay an amount equivalent to the CENVAT credit taken by him, if any, in respect of such inputs lying in stock or in process on the date on which he starts availing the said exemption. Balance credit shall not be utilised in terms of rule 3(4) of the CENVAT Credit Rules, 2004 and shall lapse on the day such service provider starts availing SSP exemption.

- (iii) **CENVAT credit on capital goods:** Service provider shall not avail the CENVAT credit on capital goods received, during the period in which the service provider avails SSP exemption.

C. Other points which merit consideration

- (i) **Exemption is optional:** Service provider has an option not to avail the SSP exemption and pay service tax. Option, once exercised in a financial year, shall not be withdrawn during the remaining part of such financial year.
- (ii) **Aggregate value of all taxable services provided from all premises to be considered:** Where a taxable service provider provides one or more taxable services from one or more premises, the exemption under this notification shall apply to the aggregate value of all such taxable services and from all such premises and not separately for each premises or each services.

- D. Aggregate value of taxable services in case of Goods Transport Agency:** In case of goods transport agency (GTA), for the purposes of determining the aggregate value not exceeding ₹ 10 lakh, to avail exemption under this notification, the payment received towards the gross amount charged by the GTA under section 67 of the said Finance Act for which the person liable for paying service tax is the consignor or consignee shall not be taken into account.

[Notification No. 33/2012-S.T. dated 20.06.2012]

- 1. Brand name or trade name** means a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as symbol, monogram, logo, label, signature, or invented word or writing which is used in relation to such specified services for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified services and some person using such name or mark with or without any indication of the identity of that person.

2. **Aggregate value** means the sum total of value of taxable services charged in the first consecutive invoices issued during a financial year but does not include value charged in invoices issued towards such services which are exempt from whole of service tax leviable thereon under section 66B of the said Finance Act under any other notification.

5.4 Exemption from service tax equal to R&D cess payable on import of technology

The amount of Research and development cess payable shall be allowed as a deduction from the service tax payable on the taxable service involving the import of technology.

Conditions to be fulfilled:-

- (a) The Research & Development Cess is paid at the time of or before payment for the service subject to maximum of 6 months period from the **date of invoice***.

*In case of associated enterprises, the date of credit in the books of account.

- (b) Necessary records will have to be maintained so as to establish a linkage between the invoice or the credit entry (as the case may be) and the cess payment challan.

Research and development cess

Research and Development cess is levied, on the payment of technical fees/consultancy/royalty or know-how etc. involving the 'import of technology', under section 3 of the Research & Development Act, 1986. The purpose of levying this cess is to encourage the commercial application of indigenously developed technology.

Rate of cess: Rate of research and development cess is 5%.

[Notification No. 14/2012-S.T, dated 17.03.2012]

5.5 Refund of service tax paid on services used in the export of goods

I. Refund of service tax where service tax is paid by exporter himself under reverse charge mechanism: The exemption would be available:

- (1) on two services, viz. (i) Transport of goods by road from any container freight station (CFS) or inland container depot (ICD) to port/airport of exports or from the place of removal (i.e. factory) to CFS, ICD, port or airport of exports; (ii) service provided by a foreign commission agent who causes sale of goods abroad;
- (2) to exporters of goods who are registered with export promotion councils and are holding import export code number and are also registered with service tax/central excise authorities as they are otherwise required to pay service tax on the above services received, under reverse charge mechanism;
- (3) in case of a foreign commission agent, exemption is limited to the service tax calculated on a value of 10% of the FOB value of export goods for which the said service has been used.

[Notification No. 31/2012 dated 20.06.2012 and Notification No. 42/2012-ST dated 29.06.2012]

II. Rebate of service tax paid on specified services used in the export of goods: With effect from 01.07.2012, a simplified scheme for rebate to the exporters of goods has been prescribed. Under this scheme, the exporters have been provided with an option to claim refund electronically through ICES scheme. Otherwise, they can claim rebate on the basis of documents.

The rebate shall be granted by way of refund of service tax paid on the “specified services”.

Specified services means-

- (i) in the case of excisable goods, taxable services that have been used beyond the place of removal, for the export of said goods;
- (ii) in the case of goods other than (i) above, taxable services used for the export of said goods;

but shall not include any service mentioned in sub-clauses (A), (B), (BA) and (C) of rule 2(l) of the CENVAT Credit Rules, 2004.

Manner of claiming rebate

The exporters now have a choice to opt either of the following options:

- A. Electronic rebate through ICES system**, which is based on the notified ‘schedule of rates’ on the lines of duty drawback, or
- B. Rebate on the basis of documents**, by approaching the Central Excise/Service Tax formations.

It may be noted that the rebate on the basis of documents shall not be claimed wherever the difference between the amount of rebate under ICES system and amount of rebate on the basis of documents is less than 20% of the rebate under ICES system.

A. Procedure for electronic rebate through ICES system

- (a) An exporter should
 - (i) have a bank account and also a central excise registration or service tax code number** and the same should be registered with Customs ICES, and
 - (ii) declare his option to avail service tax rebate on the electronic shipping bill/bill of export while presenting the same to the proper officer of Customs.

****Note:** If the exporter does not have Service tax code number referred to in clause (i) above, it should be obtained by filing a declaration in Form A-2 to the jurisdictional Assistant Commissioner / Deputy Commissioner of Central Excise.

- (b) Service tax paid on the specified services eligible as rebate under this exemption shall be calculated electronically by the ICES system, by applying the rate specified in the schedule against the said goods, as a percentage of the FOB value.
- (c) Rebate shall be deposited in the bank account of the exporter.

5.20 Indirect Taxes

- (d) An exporter who has claimed the rebate electronically cannot claim the refund again on the basis of documents.
- (e) Minimum service tax rebate for an electronic shipping bill is ₹ 50.

B. Procedure for refund on the basis of documents

- (a) **Actual payment of service tax:** For claiming rebate, the exporter has to actually pay the service tax on the specified service used for export of goods.
- (b) **No rebate to service provider:** The service provider which provides the specified services to the exporter claiming rebate of the service tax paid on such services, will not be eligible to claim rebate.
- (c) **Time-limit for filing the rebate claim:** Time-limit for filing the rebate claim shall be one year from the date of export of the said goods.

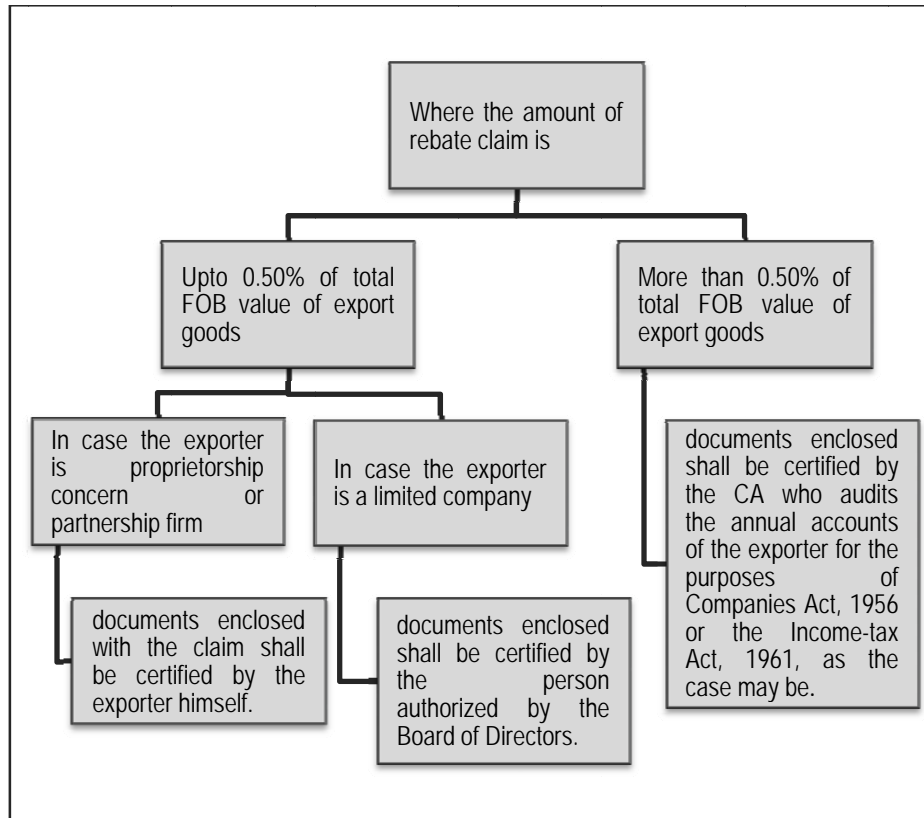
The **date of export** shall be the date on which the proper officer of Customs makes an order permitting clearance and loading of the said goods for exportation.

- (d) **Minimum amount of rebate:** is ₹ 500.
- (e) **Realization of export proceeds:** Sale proceeds in respect of exported goods must be received by or on behalf of the exporter, in India, within the period allowed by the RBI, including any extension thereof.

Where any rebate of service tax paid on specified service utilized for export of said goods has been allowed to an exporter but the sale proceeds in respect of said goods are not received by or on behalf of the exporter, in India, within the period allowed by the Reserve Bank of India including any extension thereof, such rebate shall be deemed never to have been allowed and recovered under the provisions of the said Act and the rules made thereunder.

(f) Documents to be submitted for rebate claim

1. Exporter registered under Central Excise Act, 1944 shall file a claim for rebate of service tax in Form A-1 to the jurisdictional Assistant Commissioner/Deputy Commissioner of Central Excise. Where the exporter is not so registered, he shall first file a declaration in Form A-2, seeking allotment of service tax code to the jurisdictional Assistant Commissioner/Deputy Commissioner of Central Excise and on obtaining the service tax code, file refund claim in Form A-1.
 2. Relevant invoice/ bill/ challan/ any other document for each specified service, in original, evidencing payment for the specified service used for export of the said goods and the service tax payable needs to be attached with the application.
- (g) **Certification of the documents enclosed with the rebate claim [mentioned in clause 2. of point (f) above]:** The documents enclosed with the rebate claim have to be certified in the following manner:-



- (h) **Grant of refund:** Assistant Commissioner/Deputy Commissioner of Central Excise, shall, after satisfying himself, shall grant the rebate to the exporter within a period of one month from the receipt of the said claim.

Points to be noted:-

- (a) **No CENVAT credit on the specified services used for export:** No CENVAT credit of service tax paid on the specified services used for export of the said goods can be taken under the CENVAT Credit Rules, 2004.
- (b) **No exemption to SEZ:** The aforesaid exemption cannot be claimed by a Unit or Developer of a Special Economic Zone.

[Notification No. 41/2012-S.T. dated 29.06.2012]

5.6 Exemption to services for use of foreign Diplomatic Mission/consular post in India or family members of diplomatic agents or career consular officers posted therein

Following services are exempt from service tax:-

- (i) All taxable services provided by any person to foreign diplomatic missions or consular posts in India for their **official use**.

5.22 Indirect Taxes

- (ii) All taxable services provided by any person for **personal use** or for the use of the family members of diplomatic agents or career consular officers posted therein.

The Notification also prescribes the procedure for availing the said exemption.

[Notification No. 27/2012-ST dated 20.06.2012]

5.7 Exemption to services provided by TBI / STEP

All taxable services provided or to be provided by Technology Business Incubators (TBI)/Science and Technology Entrepreneurship Parks (STEP) recognized by National Science and Technology Entrepreneurship Board (NSTEBD) of the Department of Science & Technology have been exempted from the whole of service tax leviable thereon.

Conditions to be satisfied

- (i) The STEP or the TBI, who intends to avail the exemption, shall furnish the requisite information containing the details of the incubator along with the information received from each incubatee to the concerned Assistant/Deputy Commissioner of Central Excise before availing the exemption; and
- (ii) The STEP or the TBI shall thereafter furnish the information in the formats mentioned above in the same manner before the 30th day of June of each financial year.

[Notification No. 32/2012 dated 20.06.2012]

5.8 Exemption to services received by a developer/units of a SEZ

Notification No. 12/2013 ST dated 01.07.2013 exempts services received by a unit located in Special Economic Zone (SEZ) or a Developer of SEZ - which are used for the authorized operations - from whole of service tax, education cess and secondary and higher education cess leviable thereon. The significant provisions of the exemption notification are:

- (A) Eligibility for exemption: *The taxable services received and used for the authorized operations by any of the following are eligible for exemption under this notification:-*
- *a unit located in a Special Economic Zone (hereinafter referred to as 'SEZ unit')*
 - *developer of SEZ (hereinafter referred to as 'Developer').*
- (B) Refund route and Upfront exemption: *Exemption under this notification is provided in two ways – one by way of exemption and other by way of refund.*
- (i) Option not to pay service tax ab-initio in case the specified services are used exclusively for the authorized operations: *Where the services received by SEZ Unit or Developer are used exclusively for the authorized operations, the person liable to pay service tax has the option not to pay the service tax ab initio.*

(ii) Refund route available for specified services not exclusively used for the authorized operations or specified services on which ab initio exemption though admissible, is not claimed: In the following two cases, exemption shall be provided by way of refund i.e., SEZ Unit/Developer will have to first pay service tax on the specified services and then claim refund:

- (a) when the specified services are not exclusively used for authorised operation, or
- (b) when the ab initio exemption though admissible is not claimed on the specified services

Hence, ab initio exemption will not be available in this case.

(C) Quantum of refund when specified services are not exclusively used for the authorized operations

- (a) the service tax paid on the specified services that are common to the authorised operation in an SEZ and the operation in domestic tariff area [DTA unit(s)] shall be distributed amongst the SEZ Unit or the Developer and the DTA unit (s) in the manner as prescribed in rule 7 of the CENVAT Credit Rules. For the purpose of distribution, the turnover of the SEZ Unit or the Developer shall be taken as the turnover of authorised operation during the relevant period.
- (b) the SEZ Unit or the Developer shall be entitled to refund of the service tax paid on (i) the specified services on which ab-initio exemption is admissible but not claimed, and (ii) the amount distributed to it in terms of clause (a).

Points to be noted:-

1. SEZ Unit or the Developer shall have the option not to avail of this exemption and instead take CENVAT credit on the specified services in accordance with the CENVAT Credit Rules, 2004.
2. The SEZ unit/Developer shall maintain proper account of receipt and use of the specified services on which exemption is claimed, for authorised operations in the SEZ.

The Notification also prescribes the procedure for availing the said exemption.

5.9 Exemption to specified export promotion schemes

The taxable services provided or agreed to be provided against the following duty credit scrips by a person located in the taxable territory are exempt from service tax:-

- (i) Focus Market Scheme duty credit scrip issued to an exporter by the Regional Authority in accordance the Foreign Trade Policy.
- (ii) Focus Product Scheme duty credit scrip issued to an exporter by the Regional Authority in accordance with the Foreign Trade Policy.

5.24 Indirect Taxes

- (iii) Vishesh Krishi and Gram Udyog Yojana (Special Agriculture and Village Industry Scheme) duty credit scrip issued to an exporter by the Regional Authority in accordance with the Foreign Trade Policy.

[Notification Nos. 6/2013 to 8/2013-ST dated 18.04.2013]

ABATEMENT

5.10 Abatement in respect of various taxable services

When full exemption from service tax is not granted but only a part of the tax is exempted, it is generally referred to as abatement (partial exemption). *Notification No. 26/2012 ST dated 20.06.2012* extends such abatements to taxable services subject to fulfillment of certain conditions as given hereunder:

S. No.	Description of taxable service	Percentage of abatement	Conditions
1.	Transport of goods by rail	70	Nil
2.	Transport of passengers, with or without accompanied belongings by rail	70	Nil
3.	Transport of passengers by air, with or without accompanied belongings	60	CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
4.	Services of goods transport agency in relation to transportation of goods.	75	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken <i>by the service provider</i> under the provisions of the CENVAT Credit Rules, 2004.
5.	Services provided in relation to chit	30	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of CENVAT Credit Rules, 2004.
6.	Renting of any <i>motorcab</i> designed to carry passengers	60	(i) <i>CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit</i>

			<p><i>Rules, 2004:</i></p> <p><i>(ii) CENVAT credit on input service of renting of motorcab has been taken under the provisions of the CENVAT Credit Rules, 2004, in the following manner:</i></p> <p><i>(a) Full CENVAT credit of such input service received from a person who is paying service tax on 40% of the value; or</i></p> <p><i>(b) Up to 40% CENVAT credit of such input service received from a person who is paying service tax on full value;</i></p> <p><i>(iii) CENVAT credit on input services other than those specified in (ii) above, has not been taken under the provisions of the CENVAT Credit Rules, 2004.</i></p>
7.	Transport of goods in a vessel	60	Same as above.
8.	<p><i>Transport of passengers, with or without accompanied belongings, by-</i></p> <p><i>a. a contract carriage other than motor cab</i></p> <p><i>b. a radio taxi</i></p>	60	<p><i>CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of CENVAT Credit Rules, 2004.</i></p>
9.	<p>Services by a tour operator in relation to,-</p> <p>(i) a package tour</p>	75	<p>(i) CENVAT credit on inputs, capital goods and input services <i>other than the input service of a tour operator</i>, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.</p> <p>(ii) The bill issued for this purpose indicates that it is inclusive of charges for such a tour.</p>

5.26 Indirect Taxes

	(ii) a tour, if the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour	90	<p>(i) CENVAT credit on inputs, capital goods and input services <i>other than the input service of a tour operator</i>, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.</p> <p>(ii) The invoice, bill or challan issued indicates that it is towards the charges for such accommodation.</p> <p>(iii) This exemption shall not apply in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, only includes the service charges for arranging or booking accommodation for any person and does not include the cost of such accommodation.</p>
	(iii) any services other than specified at (i) and (ii) above.	60	<p>(i) CENVAT credit on inputs, capital goods and input services <i>other than the input service of a tour operator</i>, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.</p> <p>(ii) The bill issued indicates that the amount charged in the bill is the gross amount charged for such a tour.</p>

Note:

Important definitions

1. **Chit** means a transaction whether called chit, chit fund, chitty, kuri, or by whatever name by or under which a person enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of periodical installments over a definite period and that each subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be specified in the chit agreement, be entitled to a prize amount,
2. **Package tour** means a tour wherein transportation, accommodation for stay, food, tourist guide, entry to monuments and other similar services in relation to tour are provided by the tour operator as part of the package tour to the person undertaking the tour,

3. **Tour operator** means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours.
4. *As per section 2(25) of Motor Vehicles Act, 1988, motorcab means any motor vehicle constructed or adapted to carry not more than six passengers excluding the driver for hire or reward.*